

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DOV LEVINE,

Plaintiff,

06 Civ. 590 (CLB)

- against -

Memorandum and Order

THE READER'S DIGEST ASSOCIATION, INC.,

Defendant.

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Brieant, J.

Before this Court for consideration are the Report and Recommendation of the Honorable Lisa Margaret Smith, United States Magistrate Judge, filed October 11, 2007 (Doc. 59) and Objections thereto. Familiarity therewith on the part of the reader is assumed.

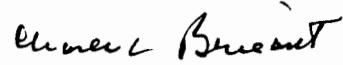
The Magistrate Judge concluded that there is a triable issue of fact which precludes granting summary judgment to Defendant in this employment discrimination case, i.e., whether Readers Digest Association controlled its Swiss subsidiary within the meaning of 29 U.S.C. § 623(h)(3), and the Court agrees.

The Report and Recommendation is adopted as the decision of this Court. Summary Judgment is denied.

The case is set for jury selection on January 22, 2008 at 9:15 A.M., followed by trial.

SO ORDERED.

Dated: White Plains, New York
November 29, 2007

A handwritten signature in cursive script, reading "Charles L. Brieant".

Charles L. Brieant, U.S.D.J.